

**Introduced by Senator Kehoe**

February 22, 2005

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An act to add Division 32.5 (commencing with Section 81750) to the Water Code, relating to water.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 866, as introduced, Kehoe. Water use measurement information.

Existing law, with certain exceptions, requires each person who diverts water after December 31, 1965, to file with the State Water Resources Control Board a statement of diversion and use. Existing law requires other water users or suppliers to report other water use information to various state agencies. Existing law requires certain water suppliers to install water meters on specified service connections and to charge for water service each customer that has a service connection for which a water meter has been installed based on the actual volume of deliveries as measured by the water meter.

This bill would require the Department of Water Resources, not later than 2 years after the date on which the department completes each update of a specified water plan, to prepare and submit to the Legislature a report with regard to various matters concerning water use measurement information. The bill would require the department, in consultation with water suppliers and other state agencies, to develop and implement the use of a coordinated water use reporting database, along with standard forms for submitting information to be reflected in the database, to be made available through the Internet. The bill would require the authority to convene a group of technical staff and interested stakeholders to develop the scope and content of the database. The bill, not later than January 1, 2013, would require certain water users and suppliers required to report water use

measurement information to the state to do so by using the standard forms developed for use in connection with the database. The bill would provide for the submission of other reports to the Legislature relating to the use of the database.

The bill, with certain exceptions and not later than January 1, 2010, would require agricultural water suppliers to report, each year, aggregated farm-gate delivery data to the department using the standard forms. The bill, with a certain exception, would condition eligibility for certain grants or loans on compliance with this reporting requirement.

The bill, with certain exceptions and not later than January 1, 2010, would require persons diverting surface water to measure and report, at least annually, those diversions to the board using the standard forms. The bill, with a certain exception, would condition eligibility for certain grants or loans to persons who divert surface water for agricultural use on compliance with this reporting requirement.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) As growth and development continue to make California's
- 4 water resources increasingly scarce, diverse stakeholder groups
- 5 have recognized the importance of water measurement.
- 6 Appropriate measurement of water use leads to better water
- 7 supply reliability by making critical information available to
- 8 local, state, and federal water managers and planners in order to
- 9 aid them in better providing for future needs.
- 10 (b) The CALFED Bay-Delta Program Record of Decision
- 11 called for the development of a definition of appropriate
- 12 measurement and the implementation of appropriate
- 13 measurement actions.
- 14 (c) (1) On April 8, 2004, the California Bay-Delta Authority
- 15 approved a water use measurement proposal, that was developed
- 16 through an open multiyear process of technical review and
- 17 consultation by diverse stakeholders and agencies and was
- 18 designed to result in a balanced package of actions that together
- 19 can advance meaningful and beneficial change. The

1 authority-approved water use measurement proposal consisted of  
2 several elements, including actions to be submitted for legislative  
3 enactment prior to full implementation, as well as administrative  
4 actions to be implemented under existing authority.

5 (2) Actions to be required by legislative enactment include all  
6 of the following:

7 (A) Requiring the measurement of urban service water  
8 deliveries by urban water suppliers, which requirement was  
9 enacted into law in 2004.

10 (B) Requiring the reporting of aggregate “farm-gate” delivery  
11 data by agricultural water suppliers to the Department of Water  
12 Resources.

13 (C) Requiring the measurement and reporting of surface water  
14 diversions by diverters to the State Water Resources Control  
15 Board.

16 (D) Requiring the development and implementation of a  
17 coordinated water use reporting database, along with the use of  
18 standard reporting forms by the Department of Water Resources,  
19 State Water Resources Control Board, State Department of  
20 Health Services, and California Bay-Delta Authority.

21 (3) Actions to be implemented administratively, under existing  
22 authority and with stakeholder involvement, include all of the  
23 following:

24 (A) Measuring cropwater consumption using remote sensing  
25 and more frequent assessment of net groundwater usage by the  
26 Department of Water Resources.

27 (B) Conducting ongoing water measurement research and  
28 adaptive management by the California Bay-Delta Authority and  
29 Department of Water Resources.

30 (C) Requiring the reporting of specific water source and  
31 customer delivery data by urban water suppliers to be performed  
32 by the State Department of Health Services, in consultation with  
33 the Department of Water Resources.

34 (d) The Department of Water Resources, State Water  
35 Resources Control Board, State Department of Health Services,  
36 and California Bay-Delta Authority should cooperate and  
37 coordinate their efforts in collecting, managing, and utilizing  
38 water use measurement information, to ensure that the  
39 information is put to optimal use in water resource planning and  
40 decisionmaking, to increase efficiency, and to reduce redundancy

1 of effort, agency costs, and duplicative reporting burdens on  
2 persons required to report measurement information. Interagency  
3 coordination is particularly necessary for the purposes of  
4 developing forms, protocols, data sets, research on  
5 measurement-related issues, and for the purpose of undertaking  
6 adaptive management to identify future actions to improve water  
7 use measurement in California.

8 SEC. 2. Division 32.5 (commencing with Section 81750) is  
9 added to the Water Code, to read:

10  
11 DIVISION 32.5. WATER USE MEASUREMENT  
12 INFORMATION  
13

14 81750. Unless the context indicates otherwise, the definitions  
15 set forth in this section govern the construction of this division.

16 (a) "Agricultural water supplier" shall have the meaning set  
17 forth in Section 10902.

18 (b) "Authority" means the California Bay-Delta Authority.

19 (c) "Best available technologies" means flow totaling devices  
20 and, if necessary, data loggers and telemetry, or their functional  
21 equivalent.

22 (d) "Best professional practices" means operations,  
23 maintenance, and data collection activities that ensure optimal  
24 accuracy and precision of measurement installations.

25 (e) "Diverting" means diverting water in the manner described  
26 in Section 5100.

27 (f) "Farm-gate delivery data" means information collected  
28 relevant to the amount of water delivered by an agricultural water  
29 supplier from that supplier's distribution facility to its customers.

30 (g) "Person" shall have the meaning set forth in Section 5100.

31 (h) "Tidal zone" means those portions of the Sacramento-San  
32 Joaquin Delta, as described in Section 12220, that are ordinarily  
33 subject to tidal action.

34 (i) "Water" refers to groundwater and surface water.

35 81751. (a) Not later than two years after the date on which  
36 the department completes each update of the California Water  
37 Plan, the department shall prepare and submit to the Legislature  
38 a report on the progress, status, and results of each of the  
39 following:

1 (1) The coordinated state water use reporting database,  
2 including a general summary of the data contained in the  
3 database, and an assessment of its accuracy and thoroughness.

4 (2) A water use measurement research agenda, including a  
5 description of priorities for water use measurement research  
6 identified by the Independent Science Board established pursuant  
7 to Section 79470.

8 (3) A review evaluating current and prior water use  
9 measurement actions, including an assessment of any additional  
10 measurement actions that the department recommends for  
11 advancement through budgetary, administrative, regulatory, or  
12 legislative means.

13 (b) The report shall also include a description of the progress,  
14 status, and results of each of the following, to the extent not  
15 covered in previous reports:

16 (1) Studies regarding the degree of correlation between water  
17 use efficiency and farm-gate measurement, including, but not  
18 necessarily limited to, the information described in subdivision  
19 (e) of Section 81753.

20 (2) Agricultural water use measurement and reporting needs  
21 associated with return flow, water quality, and instream gauging.

22 (3) Effectiveness of the measurement and reporting actions set  
23 forth in the authority-approved water use measurement proposal,  
24 dated April 8, 2004, as implemented, and the extent to which the  
25 implementation of those actions has increased or decreased the  
26 overall reporting workload for water suppliers.

27 (4) Progress or obstacles with regard to the implementation of  
28 the actions described in the authority-approved water use  
29 measurement proposal.

30 (c) The department shall prepare each report in consultation  
31 with the board and State Department of Health Services and,  
32 prior to submitting the final report to the Legislature, shall  
33 provide the authority an opportunity to review and comment  
34 upon a draft of the report.

35 81752. (a) (1)The department, in consultation with water  
36 suppliers, the board, the State Department of Health Services,  
37 and the authority, shall develop and implement the use of a  
38 coordinated water use reporting database, along with standard  
39 forms for submitting information to be reflected in the database,

1 to be made available through the Internet, in accordance with this  
2 division.

3 (2) The authority shall convene a group of technical staff from  
4 each of the agencies identified in this subdivision and interested  
5 stakeholders for the purpose of developing the scope and content  
6 of the database.

7 (b) The database and standard forms shall be developed with  
8 the intent to facilitate the reporting, receiving, compiling, storing,  
9 managing, evaluating, and making available of measurement  
10 information, while reducing redundancy and duplication of  
11 effort, consistent with the proposed reporting requirements set  
12 forth in the authority-approved water use measurement proposal.

13 (c) Not later than January 1, 2007, and after review of the draft  
14 report by the authority, the department shall prepare and submit  
15 to the Legislature a progress report describing the status of the  
16 development of the database and identifying strategies for  
17 overcoming any obstacles to its completion. Not later than  
18 January 1, 2008, the department shall prepare and submit to the  
19 Legislature a final report describing the development of the  
20 database.

21 (d) (1) Not later than January 1, 2008, the board, the State  
22 Department of Health Services, and the department shall “beta  
23 test” a version of the database. The beta test, and any resulting  
24 modifications, shall be completed within one year.

25 (2) Not later than January 1, 2009, the board, the State  
26 Department of Health Services, and the department shall notify  
27 all identified water users or suppliers, that are required to report  
28 water use measurement information to those respective state  
29 agencies, with regard to the proposed schedule for using the new  
30 database. The notice shall be provided at least 18 months prior to  
31 commencing the use of the database.

32 (e) Not later than January 1, 2010, the board, the State  
33 Department of Health Services, and the department shall  
34 commence using the database for the collection of water use  
35 measurement information. Each of the agencies identified in this  
36 subdivision may separately determine the extent to which  
37 measurement information collected by that agency prior to the  
38 date of initial operation of the database will be entered into the  
39 database.

1 (f) Except as otherwise provided in Section 81753 or 81754,  
2 not later than January 1, 2013, any water user or supplier  
3 required to report water use measurement information to the state  
4 shall do so by using the standard forms developed pursuant to  
5 this section, and the board, State Department of Health Services,  
6 and department shall discontinue other methods of collecting  
7 water use measurement information.

8 (g) The department shall maintain and manage the database.

9 81753. (a) (1) Not later than January 1, 2010, agricultural  
10 water suppliers shall commence reporting each year aggregated  
11 farm-gate delivery data to the department using the standard  
12 forms developed pursuant to Section 81752.

13 (2) For the purposes of carrying out paragraph (1), agricultural  
14 water suppliers shall summarize aggregated farm-gate delivery  
15 data, on a monthly or bimonthly basis, using best professional  
16 practices, and shall utilize accurate measurement figures,  
17 reporting devices, and methodology.

18 (b) (1) Subdivision (a) does not apply to agricultural water  
19 suppliers delivering less than 2,000 acre-feet of surface water  
20 annually, or serving less than 2,000 acres of agricultural land.

21 (2) On or after January 1, 2012, the department, in  
22 consultation with the authority, may submit written  
23 recommendations to the Legislature regarding the exemptions set  
24 forth in paragraph (1).

25 (c) (1) The terms of, and eligibility for, any grants or loans to  
26 agricultural water suppliers provided or administered by the  
27 department, board, or authority shall be conditioned on  
28 compliance with this section.

29 (2) Notwithstanding paragraph (1), the department may certify  
30 that an agricultural water supplier is eligible for a grant or loan  
31 even though the supplier is not complying with this section, if the  
32 agricultural water supplier demonstrates to the department's  
33 satisfaction that the grant or loan would assist the grantee or loan  
34 recipient in complying with this section.

35 (d) It is the intent of the Legislature that the requirements of  
36 this section shall complement and not diminish the scope of  
37 authority granted to the department or the board by provisions of  
38 law other than this division.

39 (e) (1) Not later than January 1, 2012, the staff of the  
40 authority, in consultation with their lead scientist, shall determine

1 if the data being collected under this section is sufficient to  
2 establish whether a causal link exists between farm-gate  
3 measurement accuracy and application efficiency.

4 (2) If the authority determines that the information is sufficient  
5 for the purpose of paragraph (1), the authority shall comply with  
6 paragraphs (3), (4), and (5).

7 (3) Subject to paragraph (2), not later than January 1, 2013, the  
8 authority, in consultation with its lead scientist, shall complete a  
9 preliminary evaluation to estimate the correlation between  
10 farm-gate measurement accuracy and application efficiency, and  
11 shall prepare and submit to the Legislature a report that includes  
12 the results and conclusions of the preliminary evaluation.

13 (4) Subject to paragraph (2), not later than January 1, 2014, the  
14 authority, in consultation with its lead scientist, shall complete  
15 the final evaluation of any correlation between farm-gate  
16 measurement accuracy and application efficiency, and shall  
17 prepare and submit to the Legislature a report that includes the  
18 results and conclusions of the final evaluation.

19 (5) Subject to paragraph (2), not later than January 1, 2015,  
20 and based upon the final evaluation, the authority shall determine  
21 whether the farm-gate measurement practices reflected in the  
22 annual report prepared pursuant to subdivision (a) should be  
23 altered. The determinations shall indicate which changes, if any,  
24 should be made by legislative enactment and which changes, if  
25 any, should be made by administrative action. The authority shall  
26 submit these determinations, in writing, to the Legislature.

27 81754. (a) Not later than January 1, 2010, and  
28 notwithstanding the nature of the right upon which a diversion is  
29 based, a person diverting surface water shall measure and report  
30 those diversions to the board, on at least an annual basis, using  
31 the standard forms developed pursuant to Section 81752. The  
32 reports shall include a summary of monthly diversion  
33 measurement data. The measurement of the diversions shall be  
34 made and reported using best available technologies and best  
35 professional practices.

36 (b) (1) Subdivision (a) does not apply to surface water  
37 diversions with a combined diversion capacity from a natural  
38 channel of less than 50 cubic feet per second or to diverters using  
39 siphons in the tidal zone.



1 (2) On or after January 1, 2012, the board, in consultation with  
2 the authority, may submit written recommendation to the  
3 Legislature regarding the exemptions set forth in paragraph (1).

4 (c) (1) The terms of, and eligibility for, any grants or loans to  
5 persons who divert surface water for agricultural use provided or  
6 administered by the board, the department, or the authority shall  
7 be conditioned on compliance with this section.

8 (2) Notwithstanding paragraph (1), the department may certify  
9 that a person who diverts surface water is eligible for a grant or  
10 loan even if the person is not complying with this section, if the  
11 person demonstrates to the department's satisfaction that the  
12 grant or loan would assist the grantee or loan recipient in  
13 complying with this section.

14 (d) It is the intent of the Legislature that the requirements of  
15 this section shall complement and not diminish the scope of  
16 authority granted to the department or the board by provisions of  
17 law other than this division.